

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:00CR3009
v.)	
)	
GENARO FAVALA RAMIREZ,)	
)	MEMORANDUM AND ORDER
Defendant.)	
)	

Defendant has moved for reconsideration of the court's order of October 31, 2005 denying his motion for release. Several objections are made.

First, the defendant is correct in reminding the court that he did not seek "release to treatment." That inaccuracy will be corrected.

Second, he objects to not receiving a copy of the report of investigation submitted to the court by the pretrial services officer. This, too, is a meritorious objection. I shall direct the pretrial services officer to provide copies to counsel immediately.

The other objections to the order are without merit.

I am willing to reconsider the order of detention when there is a realistic proposal that may reasonably ensure the appearance of the defendant and the safety of the community. Here, however, the information provided to the pretrial services officer was inadequate to allow an investigation to be made of the proposal. It makes no sense to require the presence of several people at an

evidentiary hearing when the result would likely be an order directing the pretrial services officer to investigate the residence of the proposed third-party custodian and its facilities for electronic monitoring, especially when it appears the suggested custodian may not have room for the defendant. In order to move this matter along, I think the appropriate course is to have the defendant file a new motion, supported with a proposal that can then be investigated by the pretrial services officer. Once that is done and the report is made to the court and counsel, I can then consider whether a hearing is necessary.

IT THEREFORE HEREBY IS ORDERED,

1. The order of October 31, 2005, filing 26, is amended to delete the words "to treatment" in the first line of the second paragraph of the memorandum.

2. The pretrial services officer shall immediately provide copies of the report of investigation to both counsel in this case.

3. In all other respects the motion for reconsideration, filing 27, is denied, without prejudice to a new motion for release accompanied by a proposal for third-party custodianship. Once such a proposal is made, the pretrial services officer shall promptly investigate the proposal and report his findings to the court and counsel.

DATED this 2nd day of November, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge